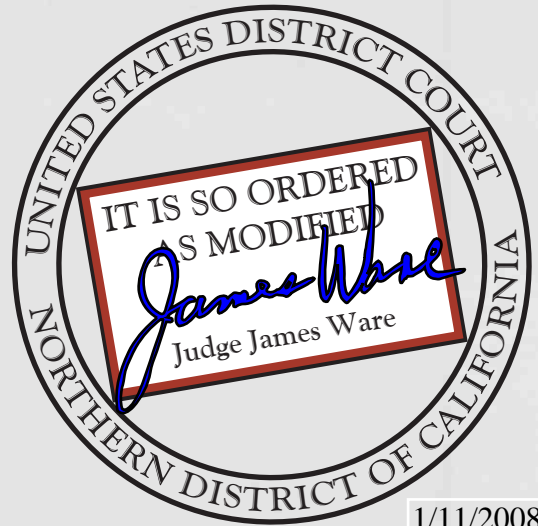


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Attorney for Defendant, RICHARD WHEAT



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD WHEAT,

Defendant.

) No. CR 07-00558 JW

)

) **STIPULATION TO CONTINUE**

) **[Proposed] ORDER THEREON**

)

)

) Date: January 14, 2008

) Time: 1:30 PM

) Judge:

)

IT IS HEREBY STIPULATED by and between counsel that there exists good cause to continue the disposition conference in the matter of RICHARD WHEAT from January 14, 2008 at 1:30 p.m. to February 4, 2008 at 1:30 p.m. This continuance is requested due to the unavailability of counsel.

In light of these facts, the parties agree that the time between January 14, 2008 and February 4, 2008 shall be excluded from the Speedy Trial Act requirements of Title 18, United States Code, § 3161 pursuant to Title 18, United States Code § 3161(h)(8)(A) and §3161(h)(8)(B)(iv). The parties agree that the time is excludable in that the ends of justice served by granting this continuance outweigh the best interests of the public and the defendant in an earlier trial, specifically based on the fact that defendant Wheat's counsel is unavailable which precludes his involvement in both the January 14, 2008 court appearance and meaningful participation in either resolving this case via a plea or preparing for trial between January 14, 2008 and February 4, 2008. For these reasons, the parties agree that a continuance is necessary to ensure that the defendant and defense counsel are prepared to make informed decisions regarding the case, and denial of such a continuance would unreasonably deny defendant Richard Wheat effective case preparation pursuant to 18 U.S.C. §3161(h)(8)(A) and §3161(h)(8)(B)(iv).

Therefore, it is respectfully requested that the current Disposition Conference date of January 14, 2008 at 1:30 p.m. be vacated and the matter be continued to February 4, 2008 at 1:30 p.m.

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///

THE PARTIES SO STIPULATE.

Dated: January 11, 2008

UNITED STATES ATTORNEY'S OFFICE

/S/

DAVE CALLOWAY, A.U.S.A.

Dated: January 11, 2008

LAW OFFICES OF PAUL B. MELTZER

/S/

PAUL B. MELTZER, Attorney for  
Defendant, RICHARD WHEAT

**PROPOSED] O R D E R**

Good cause shown, therefore, IT IS HEREBY ORDERED that the Hearing set for January 14, 2008 be vacated and the matter be reset for February 4, 2008 at 1:30 p.m.

In light of these facts, the Court finds that the time between January 14, 2008 and February 4, 2008 shall be excludable from the Speedy Trial Act requirements of Title 18, United States Code, §3161 pursuant to Title 18, United States Code, §3161(h)(8)(A) and §3161(h)(8)(B)(iv). The Court finds that the time is excludable in that the ends of justice served by granting this continuance outweigh the best interests of the public and the defendant in an earlier trial specifically based on the fact that the defendant Wheat's counsel is unavailable which preclude his involvement in both the January 14, 2008 court appearance and meaningful participation in either resolving this case via a plea or preparing for trial between January 14, 2008 and February 4, 2008. For these reasons, the parties agree that a continuance is necessary to ensure that the defendant and defense counsel are prepared to make informed decisions regarding the case, and denial of such a continuance would unreasonably deny defendant Richard Wheat effective case preparation pursuant to 18 U.S.C. §3161(h)(8)(A) and §3161(h)(8)(B)(iv).

SO ORDERED.

This is the parties' final request for continuance by stipulation. Further requests for continuance shall be made on the Court's record.

Dated: January 11, 2008

  
HON. JAMES WARE, DISTRICT JUDGE  
UNITED STATES DISTRICT COURT